

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

JERRY DARNELL LUCAS, JR.,

Plaintiff,

v.

Case No. 21-cv-0406-bhl

DR. FLAGNER, et al.,

Defendants.

ORDER

Plaintiff Jerry Darnell Lucas Jr., who is confined at Kenosha County Jail and representing himself, filed a civil rights complaint pursuant to 42 U.S.C. §1983 along with a motion for leave to proceed without prepayment of the filing fee. (ECF Nos. 1, 2.) On April 1, 2021, the Court ordered Lucas to pay the initial partial filing fee of \$16.33 on or before May 1, 2021. (ECF No. 5.) The Court also informed Lucas that if he did not either pay the initial partial filing fee or explain why he could not pay it by the stated deadline, the court would dismiss the case without prejudice. (*Id.* at 3.)

On April 9, 2021, Lucas filed a motion to waive payment of the initial partial filing fee. (ECF No. 7.) The Court denied the motion because Lucas did not provide an updated account statement supporting his contention that he no longer had the money to pay the fee. (ECF No. 8.) The Court also gave Lucas until May 7, 2021 to pay the fee or provide more information as to why he cannot pay.

The May 7, 2021 deadline has passed. Lucas has not paid the initial partial filing fee or provided the court with a written explanation as to why he could not pay. Accordingly, the Court will dismiss this case without prejudice. Because not all parties have had the opportunity to consent to magistrate judge jurisdiction, the case was reassigned to this Court for dismissal.

IT IS THEREFORE ORDERED that this case is **DISMISSED without prejudice** because Lucas has failed to pay the initial partial filing fee. The Court will enter judgment accordingly. Because the dismissal is without prejudice, Lucas may refile his complaint at a

later date, subject to the relevant statute of limitations. Alternatively, Lucas may submit the initial partial filing fee and move to have the case reopened within 30 days of the entry of this order. Lucas must pay the initial partial filing fee or explain why he is unable to do so before the court will consider a motion to reopen the case.

IT IS FURTHER ORDERED that, pursuant to 28 U.S.C. §1915(b)(1), Lucas must pay the \$350 statutory filing fee. Accordingly, the agency having custody of Lucas shall collect from his institution trust account the \$350 statutory filing fee by collecting monthly payments from Lucas's prison trust account in an amount equal to 20% of the preceding month's income credited to the prisoner's trust account and forwarding payments to the Clerk of Court each time the amount in the account exceeds \$10 in accordance with 28 U.S.C. §1915(b)(2). The payments shall be clearly identified by the case name and number assigned to this action. If Lucas is transferred to another institution, the transferring institution shall forward a copy of this Order along with Lucas's remaining balance to the receiving institution.

IT IS FURTHER ORDERED that copies of this order be sent to the officer in charge of the agency where Lucas is located.

Dated at Milwaukee, Wisconsin on May 17, 2021.

s/ Brett H. Ludwig

BRETT H. LUDWIG
United States District Judge